

Arizona Captive Insurance Reference Guide

This document is intended only as a guide. Please consult the applicable provisions of Arizona Revised Statutes, Title 20, and the Arizona Administrative Code for specific language or requirements of the laws and rules cited herein.

ACTUARIAL REQUIREMENTS

- Actuarial feasibility studies must accompany all license applications unless waived by the director. Feasibility studies cannot be waived for Risk Retention Groups.
- The feasibility study should include the following components:
 - a Be prepared on the actuary's letterhead.
 - b A description of what was reviewed and an explanation of how the feasibility study comports with the Business Plan (e.g. risks, coverages, retentions, and whether business will be written directly, ceded or assumed).
 - c The review should cover 3-5 years worth of loss history specific, if possible, to the insured and the Business Plan.
 - d The methodology used in preparing the feasibility study including confidence levels, credibility, expected results, worst and best case scenarios with premium and loss components.
 - e Conclusions on proper capitalization and pricing.
- See also, **ANNUAL AUDITS, REPORTS & STATEMENTS** for continuing requirements.
- Statutory references: A.R.S. § 20-1098.01(f)(8).

ANNUAL AUDITS, REPORTS & STATEMENTS

- For *Pure, Group, Agency & Protected Cell Captives*: within 90 days of the end of the captive's fiscal year, submit to the director a report on the captive's financial condition verified under oath by two executive officers.
 - a *Protected Cell* captives must file a Financial Statement for each cell.
- *Risk Retention Groups & Association Captives* are required to report on NAIC Annual Statement forms on or before 3-31 of each year. Quarterly NAIC statements are also required with due dates of 5-15, 8-15, and 11-15.
- Must also comply with A.R.S. §§ 20-234 and 20-488.01.
- An independent certified public accountant must perform an annual audit of the captive's financial statement. "Independent" does not include employees of the parent(s) or affiliates.
- An actuarial opinion on the adequacy of the captive's loss and loss expense reserves is an essential and required component of this annual review and must be rendered by a Fellow of the Casualty Actuarial Society, a member in good standing of the American Academy of Actuaries or an individual who has, in advance, demonstrated a level of competence satisfactory to the director of insurance.
- All Directors and Officers of the captive must annually provide either an affirmative statement that there is no conflict of interest or, if there is a conflict, full disclosure of the nature of the conflict.
- The director may waive the audit requirement.
- Statutory references: A.R.S. § 20-1098.07.

APPLICATION TO FORM A CAPTIVE INSURER

- You can print the application from our web page at www.id.state.az.us. Click on Captive Insurance and then click on Captive Admission/Application Forms. Please note that the application cannot be completed online.
- Alternatively, you can contact Maidene Scheiner or Rod Morris at 602-912-8420.

BANK ACCOUNTS

- The captive's Operating Account must be an AZ account. It is preferable, but not required, that all other captive accounts be with an AZ banking institution..

BANK CONFIRMATIONS OF CASH & INVESTMENTS

- The Conditions Addendum, issued in conjunction with the captive license, specifies timeframes (quarterly, semi-annual or annual) required for Bank Confirmations.
- Captives need to confirm or reissue Letters of Credit *only* if the LOC documents state the LOC is *not* continuous.
- The Captive's financial institution must confirm and send all other bank or investment account documents directly to the Captive Division of the Department of Insurance with an original signature of a bank officer.
- Statutory reference: A.R.S. § 20-1098.03.

BUSINESS PLANS

- Must provide a good, concise overview of the purpose of the captive, its structure, ownership, financing, etc. Do NOT rely on the attachments and exhibits to act as your vehicle for providing clarity to the Department's review and approval process.
- Applications for Risk Retention Groups should clearly explain the reasons for the proposed program and how its structure conforms and complies with the Liability Risk Retention Act.
- This section should contain narrative, data or exhibits including the following:
 - a Type of risks to be insured and whether they will be written directly, assumed or ceded by line of coverage.
 - b Expected gross annual premium by line of coverage.
 - c Expected net annual premium by line of coverage.
 - d Name of current carrier(s) for relevant coverage(s). Include copies of in-force Declaration Page(s) for both primary and excess/umbrella coverages.
 - e Loss experience for at least the past three years. Provide hard copy Claims & Loss Exhibits from insurance carriers. Describe all claims in excess of \$100,000 and the corrective action taken to avoid another occurrence.
 - f Three year financial projections (Pro-forma) showing expected and worst case scenarios.
 - g The amount of proposed retained risk—per loss and annual aggregates.
 - h Rates or pricing guidelines.
 - i Underwriting guidelines and procedures.
 - j Person responsible for loss prevention/risk mitigation. Include a copy of any Risk Management program &/or Safety/Quality Control Manual.
 - k Investment policy.
 - l Plans for distribution of dividends or other funds not including ordinary operating expenses.
 - m Complete copies of proposed coverage forms.
 - n If applicant is an Association or Group, provide its history, purpose and size.

CAPITAL & SURPLUS REQUIREMENTS

- The Department will not issue or continue a license unless the captive **possesses and maintains** the following **MINIMUM** unimpaired paid-in capital & surplus:

a	Pure Captive	\$250,000
b	Group Captive	\$500,000
c	Risk Retention Groups	\$500,000
d	Agency Captive	\$500,000
e	Protected Cell Captive	\$1,000,000
f	Reciprocals	\$500,000
g	Pure or Group reinsurers	one-half of the above indicated amounts

- Please note the Department cannot determine the actual/final amount required for licensing until after a full review of all necessary information.
- Once the Department determines the final amount of required capital & surplus, ongoing operating funds should be segregated in a separate account to avoid impairment of the mandated minimum capital & surplus.
- Statutory reference: A.R.S. § 20-1098.03.

CHANGES OF ANY TYPE

- You are required to notify the director in the event of any material change in the information, business plan, financial picture, investments, etc. Materiality, rather than a fixed percentage, category or type, is the criterion. Err on the side of disclosure if you are uncertain.
- Statutory reference: A.R.S. § 20-1098.01(H).

CONFIDENTIALITY OF INFORMATION

- With the exception of Risk Retention Groups, information on captives is confidential and cannot be provided to any other person without the written consent of the captive insurer. There are exceptions including use of the information for a regulatory purpose, producing the information pursuant to a subpoena and, if certain conditions are met, a party to a civil action or contested case in which the captive insurer is also a party.
- Statutory references: A.R.S. § 1098.01(I).

EXPENDITURES

- It is advisable that the Captive Manager either be a signatory to all checks **or** explicitly approve all expenditures. A general approval of specific categories or types of continuing expenditures is permitted.
- Statutory reference: A.R.S. § 20-1098.16

INVESTMENTS

- Notification to the director is required in the event of any material change in investments. Materiality, rather than a fixed percentage, is the criterion. Err on the side of disclosure if you are uncertain.
- Group, Agency and Protected Cell Captives (all but Pure captives) must also comply with the investment requirements in Chapter 3, Article 2 of Title 20.
- Statutory reference: A.R.S. §§ 20-1098.01(H) & 20-1098.10.

LETTERS OF CREDIT

- Must be issued or confirmed by a qualified US financial institution.

- Must be irrevocable and unconditional with an evergreen clause payable to, filed and held by the director in trust for the protection of all policyholders, ceding insurers and related expenses.
- Statutory reference: A.R.S. § 20-1098.03(B).

NOTICE OF DEFICIENCY

- The Department will issue a Notice of Deficiency when the application &/or relevant information is insufficient to finish their review.
- The Department is obligated to complete its review within 30 days of obtaining complete and adequate information. Therefore, the 30 day clock does not start until the applicant adequately responds and supplies the requested information.
- If the applicant fails to respond to the Notice of Deficiency within 60 days, the Department deems the application Inactive and all fees are forfeited.

REINSURANCE AGREEMENTS

- Reinsurance agreements are due to the Department as soon as possible after execution. Until executed, a draft or a clear statement of expected terms, limits, reinsurer information, etc., is required with the application, or at renewal of the reinsurance term.

RISK RETENTION GROUPS & ASSOCIATION CAPTIVES

- RRG applications should clearly explain the reasons for the proposed program and how its structure conforms and complies with the Liability Risk Retention Act.
- RRGs and Association Captives are required to report on NAIC Annual Statement forms on or before 3-31 of each year. Quarterly NAIC statements are also required with due dates of 5-15, 8-15, and 11-15.
- Must also comply with A.R.S. §§ 20-234 & 20-488.01.

STATUTORY NOTES

- Applicants cannot use Statutory Notes for initial capitalization. They may, however, be used for other purposes.

RELATED CAPTIVE INFORMATION NOT SPECIFIC TO THE DEPT. OF INSURANCE

ARIZONA CAPTIVE INSURANCE ASSOCIATION (AzCIA)

- Their Mission: is to support, promote, foster and market Arizona as an attractive, competitive, and vital captive insurance domicile, by providing education and networking opportunities for those who operate within the captive insurance market.
- Who is eligible to join: Captive parent companies, RRGs, captive managers, actuaries, accounting firms, lawyers, brokers/agents, claim administrators, intermediaries and consultants, etc.
- Contact information: Judith Harrington-Carlisle, Executive Director, 5301 S. Superstition Mtn. Dr. #104, PMB 484, Gold Canyon, AZ 85218. Phone: 800-423-4134, email: info@azcia.org, web site: www.azcia.org.